



California Environmental Protection Association

Via Certified Mailing - Return Receipt

May 19, 2015

Frank Lillo
Donna Every
Western Fiberglass, Inc.
1555 Copperhill Pkwy
Santa Rosa, CA 95403

Re: Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act "Clean Water Act")

To Officers, Directors, Operators and/or Facility Managers of Western Fiberglass, Inc.:

NOTICE

This Notice is provided on behalf of California Environmental Protection Association ("CEPA") in regard to violations of the Clean Water Act ("CWA" or "Act") 33 U.S.C. § 1251 *et seq.*, that CEPA believes are occurring at the Western Fiberglass facility located at 1555 Copperhill Parkway in Santa Rosa, California (the "site"). Notice is being sent to you as the responsible owners, officers, operators or managers of this facility.

CWA § 505(b) requires that 60 days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), CEPA must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the CWA, this Notice provides notification of the violations that have occurred, and continue to occur at the facility. Consequently, Western Fiberglass, Inc. (the "Discharger") is placed on formal notice by CEPA that after the expiration of sixty (60) days from the date of this Notice, CEPA will be entitled to bring suit in the United States District Court against the Discharger for continuing violations of an effluent standard or limitation, National Pollutant Discharge Elimination System ("NPDES") permit condition or requirement, or Federal or State Order issued under the CWA (in particular, but not limited to, § 301(a), § 402(p), and § 505(a)(1)), as well as the failure to comply with requirements set forth in the Code of Federal Regulations and the North Coast Regional Water Quality Control Board ("RWQCB") Water Quality Control Plan or "Basin Plan".

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto shall include sufficient information to permit the recipient to identify the following:

1. ***The specific standard, limitation, or order alleged to have been violated.***

Based on information thus far received, CEPA believes pollutants are discharged from the company's manufacturing operations at the Western Fiberglass facility in Santa Rosa, California, resulting in potential exceedances of total suspended solids (TSS), pH, biochemical oxygen demand (BOD), total organic carbons (TOC), Specific Conductance (S/C), oil and grease (OG), and zinc, among other effluents.

CEPA contends the Discharger has failed to comply with the General Industrial Storm Water Permit, NPDES Permit No. CA S000001, State Water Resources Control Board, Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ ("General Permit"), under which it first applied on August 25, 1998.

This Notice addresses the Discharger's violations of the CWA, including violation of the terms of the General California Industrial Storm Water Permit and unlawful discharge of pollutants from the facility site in Santa Rosa into Mark West Creek. Discharge waters from Mark West Creek reach the Russian River, after a confluence with the Laguna de Santa Rosa. The Laguna de Santa Rosa is CWA § 303(d) listed as impaired for sediment, temperature, bacteria, nutrients, and mercury; and the Russian River is CWA § 303(d) listed as impaired for sediment, temperature, and bacteria.

After obtaining coverage under the terms of the General Permit, the Discharger failed to prepare and/or implement an adequate Stormwater Pollution Prevention Plan ("SWPPP"), failed to develop and/or implement an adequate Monitoring and Reporting Program, and failed to implement Best Available Technology Economically Achievable ("BAT") and Best Conventional Pollutant Control Technology ("BCT") to control the discharge of pollutants in storm water at the Discharger's facility.

CEPA believe that these violations will continue until the Discharger implements an appropriate SWPPP and Monitoring and Reporting Program, and demonstrates (through sampling and testing following storm events) that its implementation of Best Management Practices ("BMPs") is effectively controlling storm and non-storm water discharges from the site.

2. *The activities alleged to constitute violations.*

Western Fiberglass, Inc. manufactures products for fluid and hazardous materials handling, including piping systems, petroleum equipment and fluid containment devices. Operations at the site include a broad range of composite plastics manufacturing activities, including resin batching, painting, grinding, hand lay-up and cutting of fiberglass. Certain fabrication activities such as resin batching and lay-up take place indoors, whereas product grinding and cutting occur outdoors. Site operations are covered under Standard Industrial Code ("SIC") 3089 [Plastics Products, not otherwise specified].

Specific potential pollutants of concern at the site include isophthalic resin, acetone, gel coat, fuel, lubricants, propylene glycol, methyl ethyl ketone peroxide (MEKP), bleach, sand and fiberglass dust, fibers and grinding residual.

The Discharger's routine operations produce copious amounts of fine fiberglass dust throughout the facility. This contaminated dust has been observed by various individuals to fall onto nearby trees, buildings, grounds and vehicles. After rain events, the fiberglass residue mixes with the rainwater, and the runoff flows to an onsite storm water detention area, which fills during heavy storm events.

Historically, the facility has exhibited extremely poor housekeeping practices and deficient best management practices (BMPs) of epic proportions, including a sanding tent on the site containing numerous holes and gaps and the observance of a profuse amount of fine, sanded material on the ground nearby; a detention pond full of debris and fugitive solids; storm water being pumped from the bottom of the detention pond, allowing settled fines to be carried out during the pumping; the failure of the Discharger to regularly sweep to minimize contaminated debris accumulations on the ground; multiple 55-gallon drum containers on the site containing resin and propylene glycol contaminants stored outside without secondary containment or overhead coverage; uncovered facility waste containers on the site with trash strewn around the sides; sediment, fiberglass and fiberglass dust accumulations noted within and around the facility's primary storm drain; and a dip tank containing water and bleach for testing fiberglass sumps observed to be leaking onto the ground.

Additionally, between July 1, 2000, and July 1, 2014, the Discharger repeatedly received violation notices from the Regional Water Quality Control Board for failing to file its required annual reports, for filing a deficient annual report, failing to collect storm water samples from representative storm water discharge locations, and failing to complete records of quarterly non-storm water discharge visual observations and monthly visual storm water discharge observations (October through May).

Specifically, the Discharger received Noncompliance Notices, Notices of Violation and Regional Board 13267 Enforcement Orders for failing to comply with the Storm Water Permit's reporting requirements for the following years: 2000, 2001, 2002, 2003, 2007, 2008, 2010 and 2012, including three separate Enforcement Actions relating to noncompliance with reporting requirements for the years 2000 through 2003.

In spite of the Board's issuance of the 13267 Orders for the Discharger's failure to file its mandatory annual reports, the Discharger has continued to violate the General Permit by failing to file its annual report for the reporting year 2013-2014, which was due on July 1, 2014.

Furthermore, the facility does not have a current and accurate Storm Water Pollution Prevention Plan (SWPPP) on file with the North Coast Regional Water Quality Control Board, and neither the facility's SWPPP nor its Storm Water Monitoring Plan (SWMP) was available at the site during inspections performed by the Regional Board and the EPA.

Due to the prolific amount of contaminants utilized during the facility's operations, and the historical bad housekeeping and deficient BMP utilization at the site, CEPA believes that the Discharger has exceeded various benchmark effluent limits on numerous occasions. However, because of the Discharger's repeated failure to collect and provide to the Regional Board storm water discharge samples from the site, the Regional Board has to date been unable to fully analyze storm water samples for U.S. EPA/RWQCB benchmark value exceedances.

The foregoing is especially egregious in light of the fact that Western Fiberglass manufactures products for environmental use (i.e. containment systems for hazardous materials). What is even more outrageous, notwithstanding the abundance of pollutants the facility operations generate, the President of Western Fiberglass has attempted in the past to obtain an absolute and permanent exemption from the Industrial Storm Water Permit requirements, stating that the company should be exempt because its products are UL Listed and approved by both the State Water Resources Control Board for containment of hazardous materials and the FDA for containment of drinking water and food products.

Furthermore, the Discharger has falsely alluded in annual reports that it eventually reluctantly filed that it was under a "No Exposure" Certification.

The above manufacturing activities at the facility take place on a site that slopes toward one or more storm drains and the waters of Mark West Creek, which conjoins with the Laguna de Santa Rosa and eventually flows into the Russian River. Both the storm drains and the navigable waters of the Mark West Creek/ Laguna de Santa Rosa and the Russian River are in somewhat close proximity to the respective site.

Specifically, the facility's primary storm drain inlet, located in the northeast corner of the facility, discharges to an old loading dock, which is now used as a retention basin. Accumulated storm water in the basin is pumped eastward to an adjacent lot owned by the facility.

Because the property on which the site is located is subject to rain events, the range of pollutants identified above can discharge to the Laguna de Santa Rosa and the Russian River. To properly regulate these activities and control the discharge of these types of pollutants, the State Water Resources Control Board requires industrial facilities to obtain an individual NPDES permit or seek coverage under the General Permit (or obtain exemption under the terms of the General Permit from its requirements), and to comply with all terms of said permit.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violations is Western Fiberglass, Inc. (referred to herein as "the Discharger"), including those of its parent companies, owners, operators and employees responsible for compliance with the CWA.

4. *The location of the alleged violation.*

The location of the point sources from which the pollutants identified in this Notice are discharged in violation of the CWA is the permanent facility address of 1555 Copperhill Parkway, in Santa Rosa, California, and include the adjoining navigable waters of the Laguna de Santa Rosa and the Russian River, respectively - both waters of the United States.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

The range of dates covered by this Notice is from at least July 1, 2000, to the present. CEPA may from time to time update this Notice to include all violations which may occur after the range of dates covered by this Notice. Some of the violations are continuous in nature; therefore, each day constitutes a violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving notice is California Environmental Protection Association, 930 Shiloh Rd. Bldg #39 Suite A, Windsor, CA 95492. CEPA is dedicated to protect, enhance and help restore the groundwater and surface water environs of California including, but not limited to, its rivers, creeks, streams, wetlands, vernal pools, and tributaries.

To ensure proper response to this Notice, all communications should be addressed as follows:

*Gerard Duenas, President
California Environmental Protection Association
930 Shiloh Road, Bldg 39-A
Windsor, CA 95492
Telephone: (707) 620-0111
Email: calenvproassoc@gmail.com*

STATUTORY BACKGROUND

CWA § 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant into waters of the United States unless such discharge is in compliance with various enumerated sections of the Act. Among other things, Section 301(a) prohibits discharges not authorized by, or in violation of, the terms of an individual NPDES permit or a general NPDES permit issued pursuant to CWA § 402(p), 33 U.S.C. § 1342.

CWA § 402(p), 33 U.S.C. § 1342(p), establishes a framework for regulating storm water discharges under the NPDES program. States with approved NPDES permitting programs are authorized under this section to regulate storm water discharges through permits issued to dischargers and/or through the issuance of a single, statewide general permit applicable to all storm water dischargers. Pursuant to CWA § 402, the Administrator of the U.S. EPA has authorized California's State Water Resources Control Board to issue NPDES permits, including general NPDES permits in California.

The State Water Resources Control Board elected to issue a statewide general permit for industrial discharges, and issued the General Permit on or about November 19, 1991, modified the General Permit on or about September 17, 1992, and reissued the General Permit on or about April 17, 1997, pursuant to CWA § 402(p).

In order to discharge storm water lawfully in California, industrial dischargers must comply with the terms of the General Permit or have obtained an individual NPDES permit and complied with its terms.

The General Permit contains certain absolute prohibitions. Discharge Prohibition Order Section A(l) of the General Permit prohibits the direct or indirect discharge of materials other

than storm water ("non-storm water discharges"), which are not otherwise regulated by a NPDES permit, to waters of the United States. Discharge Prohibition Order Section A(2) prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance. Receiving Water Limitation Order Section C(1) prohibits storm water discharges to any surface or groundwater that adversely impacts human health or the environment. Receiving Water Limitation Order Section C(2) prohibits storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Water Quality Control Board Basin Plan.

In addition to absolute prohibitions, the General Permit contains a variety of substantive and procedural requirements that dischargers must meet. Facilities discharging, or having the potential to discharge, storm water associated with industrial activity that have not obtained an individual NPDES permit must apply for coverage under the General Permit by filing a NOI. The General Permit requires existing dischargers to file NOIs before March 30, 1992.

Dischargers must also develop and implement a SWPPP which must comply with the standards of BAT and BCT. The SWPPP must, among other requirements:

- Identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges [Permit Section A(2)]. BMPs must implement BAT and BCT [Permit Section B(3)].
- Include a description of individuals and their responsibilities for developing and implementing the SWPPP [Permit Section A(3)]; a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity [Permit Section A(4)]; a list of significant materials handled and stored at the site [Permit Section A(5)]; and, a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, and a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur [Permit Section A(6)].

- Include a narrative assessment of all industrial activities and potential pollutant sources at the facility [Permit Section A(7)]. Include a narrative description of the BMPs to be implemented at the facility for each potential pollutant and its source, and consider both non-structural BMPs (including "Good Housekeeping") and structural BMPs where non-structural BMPs are not effective [Permit Section A(8)].
- Conduct one comprehensive site compliance evaluation by the facility operator in each reporting period (July 1- June 30), with SWPPP revisions made, as appropriate, and implemented within 90 days of the evaluation [Permit Section A(9)].

The General Permit requires dischargers to eliminate all non-storm water discharges to storm water conveyance systems other than those specifically set forth in Special Condition D(1)(a) of the General Permit and meeting each of the conditions set forth in Special Condition D(1)(b).

As part of their monitoring program, dischargers must identify all storm water discharge locations that produce a significant storm water discharge, evaluate the effectiveness of BMPs in reducing pollutant loading, and evaluate whether pollution control measures set out in the SWPPP are adequate and properly implemented. Dischargers must conduct visual observations of these discharge locations for at least one storm per month during the wet season (October through May) and record their findings in their Annual Report [Permit Section B(14)].

Dischargers must also collect and analyze storm water samples from at least two storms per year in compliance with the criteria set forth in Permit Section B(5). Dischargers must also conduct dry season visual observations to identify sources of non-storm water pollution in compliance with Permit Section B(7).

Permit Section B(14) of the General Permit requires dischargers to submit an "Annual Report" by July 1 of each year to the executive officer of the relevant Regional Water Quality Control Board. Permit Section A(9)(d) of the General Permit requires the dischargers to include in the annual report an evaluation of the dischargers' storm water controls, including certifying compliance with the General Permit. *See also* Permit Sections C(9), C(10) and B(14).

The EPA has established Parameter Benchmark Values ("EPA Benchmarks") as guidelines for determining whether a facility discharging storm water has implemented the requisite BAT and BCT. (65 Fed. Reg. 64746, 64767 (Oct. 30, 2000)). California Toxics Rule limitations are also applicable to all non-storm water and storm water discharges. (40 C.F.R. part 131). The RWQCB has established applicable water quality standards. This Basin Plan includes a narrative toxicity standard and a narrative oil and grease standard. The Basin Plan provides that "[waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.]" The Basin Plan establishes limits on metals, solvents, pesticides and other hydrocarbons.

SPECIFIC VIOLATIONS

CEPA contends that between at least July 1, 2000, and the present, the Discharger has been operating without compliance with the General Permit, or in substantial and material violation of the General Permit, as set forth herein.

Specifically, CEPA contends as follows:

1. To date, the Discharger has failed to develop, implement, review and update an adequate Storm Water Pollution Prevention Plan (SWPPP) and has failed to submit same to the Regional Water Quality Control Board for approval, in violation of the Board's Order No. 97-03-DWQ (as well as the newly enacted Order No. 2014-0057DWQ).

An adequate SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices (BMPs) to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges.

It must also include a description of individuals and their responsibilities for developing and implementing the SWPPP; a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies; the location of the storm water collection, conveyance and discharge system; structural control measures, impervious areas, areas of actual and potential pollutant contact and areas of industrial activity; a list of significant materials handled and stored at the site; a description of potential pollutant sources, including industrial processes, material handling and storage areas; dust and particulate generating activities; a description of significant spills and leaks; a list of all non-storm water discharges and their sources; and a description of locations where soil erosion may occur.

The SWPPP must be regularly evaluated to ensure effectiveness and revised when necessary.

CEPA's investigation has determined that there is no current SWPPP on file with the Regional Board. Furthermore, Industrial General Permit documentation recently filed by the Discharger erroneously indicates that the applicable receiving water is Redwood Creek (a non-impaired watershed), when in fact storm water discharges from the site flow directly into Mark West Creek, which is listed as impaired.

Furthermore, the Discharger has continually failed over the years to produce a SWPPP during site inspections, and the Regional Board has no record of the existence of a SWPPP for the facility.

As is outlined herein, the Discharger has also failed to utilize best management practices (BMPs) and has been in fact violated several times for improper practices (including in 2007 by the Regional Board for having deficient BMPs and horrendous housekeeping practices).

In addition to the historic deficient BMP violations listed above, the Discharger has failed to implement additional BMPs recommended by regulatory authorities, including but not limited to use of a vacuum sweeper and installation of storm drain inlet bags.

2. The Discharger has failed to develop and implement an adequate monitoring and reporting program to report storm water discharges.

Under the General Permit, facilities are required to make monthly visual observations of storm water discharges and quarterly visual observations of both unauthorized and authorized non-storm water discharges. Section B(5) of the Permit requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event."

On information and belief, CEPA alleges that Western Fiberglass failed to properly record monthly visual observations of its storm water discharges for each month from October to May for the years 2000, 2001, 2002, 2006, 2007, 2009, 2011, 2013 and 2014. During the aforementioned years, the Discharger also failed to obtain and test storm water discharges from rain events on a quarterly basis, as required by the General Permit.

On information and belief, CEPA alleges that the facility's monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

3. The Discharger has failed to file true, correct and timely Annual Reports

Section B(14) of the General Industrial Storm Water Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. The General Permit also requires the discharger to include in its annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm Water Permit.

Between at least July 1, 2000, and July 1, 2014, Western Fiberglass, Inc. (and its corporate officers and/or agents) has failed to file timely Annual Reports and/or failed to file accurate annual reports. Consequently, Western Fiberglass has violated Sections A(9)(d), B(14) and C(9) and (1) of the General Industrial Storm Water Permit every time it failed to submit a timely, complete and/or correct annual report, and every time Western Fiberglass or its agents falsely purported to comply with the Act.

4. The Discharger has Failed to Sample and Analyze for Mandatory Parameters

With some limited adjustments, facilities covered by the General Permit must sample two storm events per season from each of their storm water discharge locations, and the samples should be collected from the first storm event of the wet seasons, and at least one other storm event in the wet seasons. Facility operators that do not collect samples from the first storm event of the wet season are still required to collect samples from two other storm events of the wet season and must explain in the Annual Report why the first storm event was not sampled.

Collected samples must be analyzed for TSS, pH, specific conductance and either TOC or O&G. Facilities also must analyze their storm water samples for toxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities. Certain SIC Codes also must analyze for additional specified parameters.

A facility with a SIC Code of 3089, including Western Fiberglass, must analyze each of its storm water samples for zinc, TSS, pH, specific conductance and either TOC or O&G.

CEPA's review of Western Fiberglass' monitoring data indicates that it failed to properly analyze for the required chemicals and pollutants for each year's wet season between 2000 and 2014, for a total of 30 failures.

Each of the above-listed failures to analyze for specific required parameters is a violation of the General Permit, Section B(5)(c)iii) and Section B(5)(c)(iii). These violations are ongoing.

5. The Discharger has failed to Implement BAT and BCT.

Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures.

CEPA's investigation indicates that Western Fiberglass has not implemented BAT and BCT at the Facility for its discharges of Total Suspended Solids (TSS), Oil and Grease (O&G), Specific Conductance (SC), Zinc, and other unmonitored pollutants mentioned herein, in violation of Effluent Limitations B(3) of the General Permit.

To meet the BAT/BCT requirement of the General Permit, Western Fiberglass must evaluate all pollutant sources at the Facility and implement the best structural and non-structural management practices economically achievable to reduce or prevent the discharge of pollutants from the Facility. Based on the limited information available regarding the internal structure of the Facility, CEPA believes that at a minimum, Western Fiberglass must improve its housekeeping practices, store materials that act as pollutant sources under cover or in contained areas, treat storm water to reduce pollutants before discharge (e.g. with filters or treatment boxes) and/or prevent storm water discharge altogether. Western Fiberglass has failed to adequately implement such measures.

Western was required to have implemented BAT and BCT no later than October 1, 2000. Therefore, Western Fiberglass has been in continuous violation of the BAT and BCT requirement every day since October 1, 2000, and will continue to be in violation every day that it fails to implement BAT and BCT, and is subject to penalties for its violations.

6. The Discharger has failed to comply with its Regional Board 13267 Orders.

The Clean Water Act allows citizen suits to enforce orders issued with respect to an "effluent standard or limitation," as defined in section 505(f) of the Clean Water Act, 333 U.S.C. § 1365(f). An NPDES permit, such as the Storm Water Permit, is a standard or limitation. The 13267 Orders the Regional Board issued against the Discharger on September 1, 2000, September 10, 2001 and August 13, 2003, respectively, were issued by the Regional Board based on its authority in section 13267 of California's Water Code to enforce the Storm Water Permit and to investigate water quality as it relates to discharges under the Storm Water Permit. Thus, violations of the Board's 13267 Orders are subject to citizen enforcement under the Clean Water Act.

The Regional Board's NOV and 13267 Orders were issued based on violations of the Storm Water Permit, including the continued failure of Western Fiberglass to file its annual monitoring reports by July 1st of each year, and required the Discharger to submit its report within 30 days of the date of the Order. The Discharger failed to do so and failed to even respond to the Regional Board's 13267 Orders.

Every day that Western Fiberglass fails to submit a report that complies with the 13267 Orders issued by the Regional Board is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. Western Fiberglass has been in daily and continuous violation

of the Board's 13267 Orders since October 1, 2000. These violations are ongoing, and CEPA will include additional violations when information becomes available.

7. CEPA believes the Discharger has had other violations that can only be fully explored once discovery and investigation has been completed. Hence, to the extent possible, CEPA includes such violations in this Notice and reserves the right to amend this Notice, if necessary, to include such further violations in future legal proceedings.

The violations discussed herein, impacting Mark West Creek, the Laguna de Santa Rosa and the Russian River, are derived from eye witness reports and records publicly available, or from records in the possession and control of the Discharger. Furthermore, CEPA contends these violations are continuing. Halting the discharge of pollutants to these important regional waterways is critical if they are to sustain both maritime and natural habitats for bird, animal, and plant life.

REMEDIAL MEASURES REQUESTED

CEPA believes that implementation of the following remedial measures are necessary in order to bring the Discharger into compliance with the CWA and reduce the biological impacts of its non-compliance upon public health and the environment surrounding the facility.

1. Prohibition of the discharges of pollutants including, but not limited to total suspended solids, pH, chemical oxygen demand, biochemical oxygen demand, potassium, sulfate, oil and grease, lead, iron, and zinc, specific conductance, isophalic resin, acetone, gel coat, fuel, lubricants, propylene glycol, methyl ethyl ketone peroxide (MEKP), bleach, sand and fiberglass dust and residual from the manufacturing operations at the facility.
2. Compliance with the terms and conditions of the General Permit, and the BMPs detailed in the EPA's "Industrial Storm Water Fact Sheet for Sector Y: Rubber, Miscellaneous Plastic Products and Miscellaneous Manufacturing Industries;" as well as all BMPs recommended by the Regional Board.
3. Compliance with the storm water sampling, monitoring and reporting requirements of the General Permit.
4. Sampling of storm water at least four (4) times per year over each of the next five (5) years: at "first flush"; the first significant rain after "first flush"; the first significant rain after April 1; and the second significant rain after April 1.
5. 100% of the discharge from the facility must be discharged through discrete conveyances.

6. Any discharge from the facility to waters of the United States must be sampled during the four (4) sampling events identified in paragraph #4 above.

7. Preparation and submittal to the RWQCB of a "Reasonable Potential Analysis" for the site and its operations.

8. Preparation of an updated SWPPP for the site, including a monitoring program, with a copy provided to CEPA.

9. Installation, operation and maintenance of an appropriate storm water treatment system.

CONCLUSION

CWA §§ 505(a) (1) and 505(f) provide for citizen enforcement actions against any "person," including individuals, corporations, or partnerships, for violations of NPDES permit requirements and for unpermitted discharges of pollutants. 33 U.S.C. §§ 1365(a) (1) and (f), § 1362(5).

Furthermore, Section 309(d) of the Act and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) provides that each separate violation of the Act subjects the Discharger to a penalty of up to \$37,500 per day, per violation, for all violations occurring after January 12, 2009.

In addition to civil penalties, CEPA will seek injunctive relief to prevent further violations of the Act pursuant to Sections 505(a) and (3) [33 U.S.C. §§1965(a) and (d)] and such other relief as permitted by law.

Lastly, 33 U.S.C. §1365(d) permits prevailing parties to recover costs and fees, including attorneys' fees.

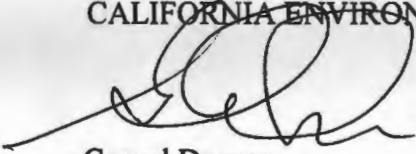
The violations set forth in this Notice affect the health and enjoyment of members of CEPA who reside and recreate in the affected communities. Members of CEPA use the affected watersheds for recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource are specifically impaired by the Discharger's violations of the CWA as set forth in this Notice.

CEPA believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period, or shortly thereafter, CEPA has cause to file a citizen's suit under CWA § 505(a) against the Discharger for the violations of the CWA identified and described in this Notice.

During the 60-day notice period, CEPA is willing to discuss effective remedies for the violations identified in this Notice. However, if the Discharger wishes to pursue such discussions in the absence of litigation, it is suggested those discussions be initiated soon so that they may be completed before the end of the 60-day notice period. CEPA does not intend to delay the filing of a lawsuit if discussions are continuing when the notice period ends.

Very truly yours,

CALIFORNIA ENVIRONMENTAL PROTECTION ASSOCIATION

A handwritten signature in black ink, appearing to read 'Gerard Duenas', is written over the printed name and title.

Gerard Duenas
President and CEO

Copies to:

**Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460**

**Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100**

**Eric Holder, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001**

**Regional Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105**

**Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403**